

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENDRA POSTELL,

Plaintiff,

v.

Civil Case No. 14-11244
Honorable Linda V. Parker

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S AUGUST 6,
2015 REPORT AND RECOMMENDATION [ECF NO. 21]**

On March 26, 2014, Plaintiff filed this lawsuit challenging Defendant's final decision denying her application for disability, disability insurance benefits and supplemental security income under the Social Security Act. Also, on March 26, 2014, the matter was referred to Magistrate Judge Michael J. Hluchaniuk for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a Report and Recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 3.) The parties subsequently filed cross-motions for summary judgment. (ECF Nos. 17, 20.)

On August 6, 2015, Magistrate Judge Hluchaniuk issued his R&R. (ECF No. 21.) Magistrate Judge Hluchaniuk first concluded that, concerning plaintiff's

substance abuse, the ALJ failed to follow the controlling regulations for determining whether alcohol continued to be material to Plaintiff's claimed disability, and recommended that the matter be remanded for further proceedings, including further development of the record to determine the effect of alcohol abuse on plaintiff's potential disability. (*Id.* at Pg. ID No. 807.)

Magistrate Judge Hluchaniuk next concluded that there is no basis to disturb the ALJ's conclusions concerning the Listings in §§ 12.04, 12.05, and 12.06, given that the ALJ's weighing of the opinion evidence is supported by substantial evidence. (*Id.* at Pg. ID No. 809–810.)

At the end of his R&R, Magistrate Judge Hluchaniuk advises the parties that they may object to and seek review of the R&R within fourteen (14) days of service upon them. (*Id.* at Pg. ID No. 810–11.) He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.* at Pg. ID 811.) Neither party filed objections to the R&R.

This Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Hluchaniuk. The Court therefore adopts the magistrate judge's August 6, 2015 Report and Recommendation.

Accordingly,

IT IS HEREBY ORDERED that the Magistrate Judge Hluchaniuk's August 6, 2015 Report and Recommendation (ECF No. 21) is **ADOPTED** as the

opinion of this Court. Further, for the reasons stated in the R & R, **IT IS ORDERED** that Plaintiff's motion for summary judgment (ECF No. 17) is **GRANTED IN PART** and Defendant's motion for summary judgment (ECF No. 20) is **DENIED IN PART** – in that the findings of the Commissioner are **REVERSED IN PART** and that this matter is **REMANDED** for further consideration.

SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: September 18, 2015

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, September 18, 2015, by electronic and/or U.S. First Class mail.

s/ Richard Loury
Case Manager